

Litigation

During 1997 the Board of Governors was a party in twenty-three lawsuits or appeals filed that year and was a party in fifteen other cases pending from previous years, for a total of thirty-eight cases. In 1996 the Board had been a party in a total of twenty-nine lawsuits. Three of the twenty-three lawsuits filed in 1997 raised questions under the Bank Holding Company Act. As of December 31, 1997, twenty-one cases were pending.

Bank Holding Company Act— Review of Board Actions

Eliopoulos v. Board of Governors, No. 97-1442 (D.C. Circuit, filed July 17, 1997), was a petition for review of a Board order dated June 23, 1997, approving the application of First Bank System, Inc., Minneapolis, Minnesota, to acquire U.S. Bancorp, Portland, Oregon, and thereby acquire U.S. Bancorp's banking and nonbanking subsidiaries (83 *Federal Reserve Bulletin* 689). On November 10, 1997, the court granted the Board's motion to dismiss the petition.

Greeff v. Board of Governors, No. 97-1976 (4th Circuit, filed June 17, 1997), is a petition for review of a Board order dated May 19, 1997, approving the application of Allied Irish Banks, plc, Dublin, Ireland, and First Maryland Bancorp, Baltimore, Maryland, to acquire Dauphin Deposit Corporation, Harrisburg, Pennsylvania, and thereby acquire Dauphin's banking and nonbanking subsidiaries (83 *Federal Reserve Bulletin* 607).

In *Inner City Press/Community on the Move v. Board of Governors*, No. 97-

1394 (D.C. Circuit, filed June 12, 1997), petitioners sought review of a Board order dated May 14, 1997, approving the application of Banc One Corporation, Inc., Columbus, Ohio, to merge with First USA, Inc., Dallas, Texas (83 *Federal Reserve Bulletin* 602). Petitioners' motion for a stay pending appeal was denied on June 27, 1997. On December 12, 1997, the court granted the Board's motion to dismiss the petition (130 F.3d 1088).

In *The New Mexico Alliance v. Board of Governors*, No. 96-9552 (10th Circuit, filed December 24, 1996), petitioners seek review of a Board order dated December 16, 1996, approving the acquisition by NationsBank Corporation and NB Holdings Corporation, both of Charlotte, North Carolina, of Boatmen's Bancshares, Inc., St. Louis, Missouri (83 *Federal Reserve Bulletin* 148).

First Baird Bancshares, Inc. v. Board of Governors, No. 96-1426 (D.C. Circuit, filed November 18, 1996), was a petition for review of a Board order dated November 6, 1996, approving applications of First Commercial Corporation, Little Rock, Arkansas; Arvest Bank Group, Inc., Bentonville, Arkansas; and TRH Bank Group, Inc., Norman, Oklahoma, to acquire all the shares of The Oklahoma National Bank of Duncan, Duncan, Oklahoma (83 *Federal Reserve Bulletin* 41). On November 20, 1996, the court denied petitioners' motion for a stay. The case was dismissed by agreement of the parties on January 2, 1997.

The Southeast Raleigh Community Development Corporation v. Board of Governors, No. 96-1054 (D.C. Circuit, filed February 16, 1996), was a petition

for review of a Board order dated January 17, 1996, approving the merger of First Citizens BancShares, Inc., Raleigh, North Carolina, with Allied Bank Capital, Inc., Sanford, North Carolina (82 *Federal Reserve Bulletin* 232). Petitioners' motion for a stay was denied on March 5, 1996. On January 2, 1997, the case was dismissed on petitioners' motion.

Inner City Press/Community on the Move v. Board of Governors, No. 96-4008 (2d Circuit, filed January 19, 1996), was a petition for review of a Board order dated January 5, 1996 (82 *Federal Reserve Bulletin* 239), approving the merger of Chemical Banking Corporation and The Chase Manhattan Corporation, both of New York, New York. On March 26, 1996, the court denied petitioners' motion for a stay. On July 2, 1997, the court dismissed the petition (118 F.3d 905).

Lee v. Board of Governors, No. 95-4134 (2d Circuit, filed August 22, 1995), was a petition for review of two Board orders dated July 24, 1995, approving certain steps of a corporate reorganization of U.S. Trust Corporation, New York, New York, and the acquisition of U.S. Trust by The Chase Manhattan Corporation, New York, New York (81 *Federal Reserve Bulletin* 893). The case, which was consolidated with *Inner City Press v. Board of Governors*, No. 96-4008, was dismissed on July 2, 1997 (118 F.3d 905).

Money Station, Inc. v. Board of Governors, No. 95-1182 (D.C. Circuit, filed March 30, 1995), was a petition for review of a Board order dated March 1, 1995, approving notices by Banc One Corporation, Columbus, Ohio; CoreStates Financial Corp., Philadelphia, Pennsylvania; PNC Bank Corp., Pittsburgh, Pennsylvania; and KeyCorp, Cleveland, Ohio, to acquire certain data processing assets of National City Cor-

poration, Cleveland, Ohio, through a joint venture (81 *Federal Reserve Bulletin* 491). On April 23, 1996, a panel of the court of appeals granted the petition for review and vacated the Board's order. The full court subsequently granted the Board's request for rehearing en banc and vacated the panel's judgment (94 F.3d 658). The case was dismissed on the parties' joint motion on January 7, 1997.

Litigation under the Financial Institutions Supervisory Act

Leuthe v. Office of Financial Institution Adjudication, No. 97-1826 (3d Circuit, filed October 22, 1997), is an appeal of a district court dismissal (977 F. Supp. 537 (E.D. Pa. 1997)) of an action against the Board and other federal banking agencies challenging the constitutionality of the Office of Financial Institution Adjudication.

Towe v. Board of Governors, No. 97-71143 (9th Circuit, filed September 15, 1997), is a petition for review of a Board order dated August 18, 1997 (83 *Federal Reserve Bulletin* 849), prohibiting Edward Towe and Thomas E. Towe from further participation in the banking industry.

In *Banking Consultants of America v. Board of Governors*, No. 97-2791 (W.D. Tenn., filed September 2, 1997), plaintiffs seek to enjoin an investigation by the Board, the Office of the Comptroller of the Currency, and the Department of Labor.

In *Vickery v. Board of Governors*, No. 97-1344 (D.C. Circuit, filed May 9, 1997), petitioner seeks review of a Board order dated April 14, 1997, prohibiting Charles R. Vickery, Jr., from further participation in the banking industry (83 *Federal Reserve Bulletin* 535).

Pharaon v. Board of Governors, No. 97-1114 (D.C. Circuit, filed February 28, 1997), is a petition for review of a Board order dated January 31, 1997, imposing civil money penalties and an order of prohibition against Ghaith R. Pharaon for violations of the Bank Holding Company Act (83 *Federal Reserve Bulletin* 347).

Snyder v. Board of Governors, No. 96-1403 (D.C. Circuit, filed October 23, 1996), was a petition for review of a Board order dated September 11, 1996, prohibiting petitioners from further participation in the banking industry (82 *Federal Reserve Bulletin* 1067). On May 8, 1997, the court dismissed the petition, and on July 31, 1997, the court denied petitioners' motion for rehearing and rehearing en banc.

In *Clifford v. Board of Governors*, No. 96-1342 (D.C. Circuit, filed September 17, 1996), petitioners sought review of a Board order dated August 21, 1996, denying petitioners' motion to dismiss an enforcement action against them. On May 6, 1997, the court granted the Board's motion to dismiss the petition.

Long v. Board of Governors, No. 96-9526 (10th Circuit, filed July 31, 1996), was a petition for review of a Board order dated July 2, 1996, assessing a civil money penalty and imposing a cease and desist order for violations of the Bank Holding Company Act (82 *Federal Reserve Bulletin* 871). On June 30, 1997, the court affirmed the Board's order (117 F.3d 1145).

In *Interamericas Investments, Ltd. v. Board of Governors*, No. 96-60326 (5th Circuit, filed May 8, 1996), petitioners sought review of a Board order dated April 9, 1996, imposing civil money penalties and a cease and desist order against them (82 *Federal Reserve Bulletin* 609). Petitioners' motion to stay the order pending judicial review

was denied on August 20, 1996. On April 16, 1997, the court affirmed the Board's order (111 F.3d 376).

In *Board of Governors v. Interamericas Investments, Ltd.*, No. H-95-565 (S.D. Texas, filed February 24, 1995), the Board sought to freeze certain assets of a company pending the administrative adjudication of a civil money penalty assessment by the Board. On March 1, 1995, the court issued a stipulated order requiring the company to deposit \$1 million into the registry of the court. On June 24, 1997, the action was dismissed following the payment to the Board of the assets at issue.

In *Board of Governors v. Pharaon*, No. 91-CIV-6250 (S.D. New York, filed September 17, 1991), the Board sought to freeze the assets of an individual pending the administrative adjudication of a civil money penalty assessment by the Board. On September 17, 1991, the court issued an order temporarily restraining the transfer or disposition of the individual's assets. The order has been extended by agreement.

Other Actions

Goldman v. Department of the Treasury, No. 1-97-CV-3798 (N.D. Georgia, filed December 23, 1997), is a declaratory judgment action challenging Federal Reserve notes as lawful money.

Kerr v. Department of the Treasury, No. CV-S-97-01877-DWH (S.D. Nevada, filed December 22, 1997), is a challenge to income taxation and Federal Reserve notes.

Allen v. Indiana Western Mortgage Corp., No. 97-7744 RJK (C.D. California, filed November 12, 1997), is a customer dispute with a bank.

Patrick v. United States, No. 97-75564 (E.D. Michigan, filed November 7, 1997), and *Patrick v. United*

States, No. 97-75017 (E.D. Michigan, filed September 30, 1997), are actions for damages arising out of tax disputes.

Artis v. Greenspan, No. 97-5235 (D.C. Circuit, filed September 19, 1997), is an appeal of a district court order dismissing a class complaint alleging race discrimination in employment. A related employment discrimination case, *Artis v. Greenspan*, No. 97-5234 (D.C. Circuit, filed September 19, 1997), is an appeal of the dismissal of an individual discrimination claim.

In *Branch v. Board of Governors*, No. 97-5229 (D.C. Circuit, filed September 12, 1997), the plaintiff appeals a district court order denying his motion to compel production of pre-decisional supervisory documents and testimony sought in connection with an action by Bank of New England Corporation's trustee in bankruptcy against the Federal Deposit Insurance Corporation. On November 10, 1997, the court denied appellant's request for expedited consideration of the appeal.

Wilkins v. Reno, No. 97-2275 (4th Circuit, filed September 12, 1997), was an appeal of a district court's dismissal of a complaint concerning a customer dispute with a bank. On December 9, 1997, the court of appeals affirmed the district court's dismissal.

Clarkson v. Greenspan, No. 97-CV-2035 (D. District of Columbia, filed September 5, 1997), is a Freedom of Information Act case.

Bettersworth v. Board of Governors, No. 97-CA-624 (W.D. Texas, filed August 21, 1997), is a complaint under the Privacy Act.

Wilkins v. Warren, No. 97-CV-590 (E.D. Virginia, filed August 4, 1997), is a customer dispute with a bank.

Maunsell v. Greenspan, No. 97-6131 (2d Circuit, filed May 22, 1997), is an appeal of a district court's dismissal of an action for compensatory and punitive

damages for alleged violations of civil rights by a federal savings bank.

Research Triangle Institute v. Board of Governors, No. 97-1282 (4th Circuit, filed February 24, 1997), was an appeal of a district court's dismissal of a contract claim (962 F. Supp. 61 (M.D.N.C. 1997)). On December 29, 1997, the court of appeals affirmed the district court's dismissal of the action (13 F.3d 985).

Jones v. Board of Governors, No. CV97-0198 (W.D. Louisiana, filed January 30, 1997), was a complaint alleging violations of the Fair Housing Act. On November 13, 1997, the court granted the Board's motion to dismiss the action.

American Bankers Insurance Group, Inc. v. Board of Governors, No. 96-CV-2383-EGS (D. District of Columbia, filed October 16, 1996), is an action seeking declaratory and injunctive relief invalidating a new regulation issued by the Board under the Truth in Lending Act relating to treatment of fees for debt cancellation agreements (12 C.F.R. section 226.4(d)(3)). On October 18, 1996, the district court denied plaintiffs' motion for a temporary restraining order.

Kuntz v. Board of Governors, No. 96-1079 (D.C. Circuit, filed March 7, 1996), was a petition for review of a Board order, issued under the Federal Reserve Act and the Bank Merger Act, approving the application of The Fifth Third Bank, Cincinnati, Ohio, and The Fifth Third Bank of Columbus, Columbus, Ohio, to acquire certain assets and assume certain liabilities of twenty-five branches of NBD Bank, Columbus, Ohio (82 *Federal Reserve Bulletin* 366). The court dismissed the petition on February 13, 1997.

Kuntz v. Board of Governors, No. 95-1485 (D.C. Circuit, filed September 21, 1995), was a petition for review of a

Board order issued under the Federal Reserve Act and the Bank Merger Act approving the application of the Fifth Third Bank, Cincinnati, Ohio, to acquire certain assets and assume certain liabilities of twelve branches of PNC Bank, Ohio, N.A., Cincinnati, Ohio, and to establish certain branches (81 *Federal Reserve Bulletin* 976). On February 13, 1997, the court dismissed the petition. ■